

**\*E-FILED - 8/18/08\***

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MAURICE EDWARD CAMPBELL,	)	No. C 08-3725 RMW (PR)
	)	
Petitioner,	)	ORDER GRANTING
	)	PETITIONER'S MOTION TO
v.	)	PROCEED IN FORMA
	)	PAUPERIS; ORDER TO
BEN CURRY, Warden,	)	SHOW CAUSE
	)	
Respondent.	)	(Docket No. 2)
	)	
	)	

Petitioner, a California state prisoner proceeding pro se, filed the instant habeas corpus petition pursuant to 28 U.S.C. § 2254 on August 4, 2008. That same day, he also filed an application to proceed in forma pauperis. Based on the submitted application, the court finds that petitioner has shown good cause to proceed in forma pauperis and will GRANT petitioner's motion (docket no. 2). The court orders respondent to show cause why a writ of habeas corpus should not be issued.

**BACKGROUND**

According to the petition, on January 24, 2003, a Los Angeles court convicted petitioner of one count of burglary (CA Penal Code § 459). On March 13, 2003, petitioner was sentenced to fifteen years. Petitioner alleges that he has exhausted his administrative and state remedies, which were all denied. The instant federal petition was filed on August 4, 2008.

## DISCUSSION

### A. Standard of Review

This court may entertain a petition for writ of habeas corpus “in behalf of a person in custody pursuant to the judgment of a state court only on the ground that he is in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2254(a); Rose v. Hodges, 423 U.S. 19, 21 (1975).

A district court shall “award the writ or issue an order directing the respondent to show cause why the writ should not be granted, unless it appears from the application that the applicant or person detained is not entitled thereto.” 28 U.S.C. § 2243.

### B. Petitioner’s Claim

As grounds for federal habeas relief petitioner asserts that the California Department of Corrections violated his equal protection rights under the Fourteenth Amendment by denying him the opportunity to participate in earning work training credits to reduce his sentence pursuant to California Penal Code §§ 2933, 2934. Liberally construed, petitioner’s allegation is sufficient to require a response. The court orders respondent to show cause why the petition should not be granted.

## CONCLUSION

1. Petitioner’s motion to proceed in forma pauperis (docket no. 2) is  
GRANTED.

2. The clerk shall serve by mail a copy of this order and the petition (docket no. 1) and all attachments thereto upon the respondent and the respondent’s attorney, the Attorney General of the State of California. The clerk shall also serve a copy of this order on the petitioner.

3. Respondent shall file with the court and serve on petitioner, within **sixty days** of the filing date of this order and the petition, an answer conforming in all respects to Rule 5 of the Rules Governing Section 2254 Cases, showing cause why a writ of habeas corpus should not be granted. Respondent shall file with the answer and serve on petitioner a copy of all portions of the underlying state criminal record that have been transcribed previously and that are relevant to

1 a determination of the issues presented by the petition.

2 If petitioner wishes to respond to the answer, he shall do so by filing a traverse with the  
3 court and serving it on respondent within **thirty days** of the filing date of the answer.

4 4. Respondent may file a motion to dismiss on procedural grounds in lieu of an  
5 answer, as set forth in the Advisory Committee Notes to Rule 4 of the Rules Governing Section  
6 2254 Cases within **sixty days** of the filing date of this order. If respondent files such a motion,  
7 petitioner shall file with the court and serve on respondent an opposition or statement of non-  
8 opposition within **thirty days** of the file date of the motion, and respondent shall file with the  
9 court and serve on petitioner a reply within **fifteen days** of any opposition.

10 5. It is petitioner's responsibility to prosecute this case. Petitioner is reminded that  
11 all communications with the court must be served on respondent by mailing a true copy of the  
12 document to respondent's counsel. Petitioner must keep the court and all parties informed of any  
13 change of address by filing a separate paper captioned "Notice of Change of Address." He must  
14 comply with the court's orders in a timely fashion. Failure to do so may result in the dismissal  
15 of this action for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b).

16 IT IS SO ORDERED.

17 DATED: 8/15/08



RONALD M. WHYTE  
United States District Judge